

AMENDED IN ASSEMBLY MAY 1, 2000

AMENDED IN ASSEMBLY APRIL 4, 2000

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2256**

**Introduced by Assembly Member Correa**

February 24, 2000

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An act to amend Sections 18050.7; and 18070.3 of the Health and Safety Code, relating to mobilehomes.

LEGISLATIVE COUNSEL'S DIGEST

AB 2256, as amended, Correa. Licensing: manufactured homes and mobilehomes.

Under the existing Mobilehomes-Manufactured Housing Act of 1980, the Department of Housing and Community Development is required to enforce various laws pertaining to manufactured housing, mobilehomes, park trailers, commercial coaches, special purpose commercial coaches, and recreational vehicles. The act also prohibits the department from granting an initial dealer's license to any applicant who has not met all of the specified education and experience requirements.

The bill would create a manufactured home or mobilehome dealer's license, add alternative criteria for meeting the requirements of a license, and raise the maximum payment from \$40,000 to \$75,000 that a claimant, as defined, who has obtained a final judgment against any manufactured home dealer, salesperson, or other seller or purchaser, may receive

from the Manufactured Home Recovery Fund for, among other things, failure to honor warranties or guaranties, fraud, or willful misrepresentation with respect to any one sales transaction on a new or used manufactured home.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 18050.7 of the Health and Safety  
2 Code is amended to read:

3 18050.7. In addition to any other requirements  
4 imposed by this part or regulations of the department, the  
5 department shall not grant an initial manufactured home  
6 or mobilehome dealer's license to any applicant who has  
7 not satisfied all of the education and experience  
8 requirements contained in this section. If the applicant  
9 for a manufactured home or mobilehome dealer's license  
10 is a partnership, corporation, or other business entity,  
11 each person designated to participate in the direction,  
12 control, or management of the sales operation of the  
13 entity shall meet all of the education and experience  
14 requirements contained in this section prior to issuance  
15 of a manufactured home or mobilehome dealer's license  
16 by the department.

17 (a) The applicant either shall have held a valid  
18 manufactured home or mobilehome salesperson's license  
19 issued by the department for at least two years within the  
20 five-year period immediately preceding the application  
21 for an initial manufactured home or mobilehome dealer's  
22 license, or shall meet any of the following criteria:

23 (1) Has acquired a four-year degree from an  
24 accredited college or university.

25 (2) Has held a valid manufactured home or  
26 mobilehome salesperson's license issued by the  
27 department for one year in the past three years and  
28 acquired an associate of arts or associate of science degree  
29 from an accredited college.

30 (3) Has been the officer of the corporation, owner or  
31 partner of, or has held a management position relating to

1 finance, marketing, administration, or general  
2 management with, a manufacturer of manufactured  
3 housing in any state for two years within the five years  
4 immediately preceding application for an initial  
5 manufactured home or mobilehome dealer's license.

6 (4) Holds a management position with a housing  
7 authority, redevelopment agency, or nonprofit housing  
8 corporation which is developing individual lots, a  
9 subdivision, or a park for the placement of manufactured  
10 homes or mobilehomes.

11 (5) Has been an escrow, title, or loan officer of a land  
12 title company, bank, savings and loan association, or  
13 mortgage company in a capacity directly related to  
14 financing or conveying title to manufactured housing for  
15 two years within the five years immediately preceding  
16 application for an initial manufactured home or  
17 mobilehome dealer's license.

18 (6) Has been a subdivider, developer, or contractor in  
19 any state ~~during which time the applicant developed or~~  
20 ~~sold 10 lots or the equivalent, for~~ *for at least* two years  
21 within the five years immediately preceding application  
22 for an initial manufactured home or mobilehome dealer's  
23 license, *during which time the applicant developed or*  
24 *sold 10 lots or the equivalent.*

25 (7) Has been the officer of a corporation, the owner or  
26 partner of a mobilehome park or mobilehome park  
27 management company in any state for at least two years  
28 within the five years immediately preceding the  
29 application for an initial manufactured home or  
30 mobilehome dealer's license.

31 (8) Has held a manufactured home or mobilehome  
32 dealer's license from a state other than California for at  
33 least four years within the five years immediately  
34 preceding the application for an initial manufactured  
35 home or mobilehome dealer's license, and has completed  
36 24 hours of continuing education class in California, in  
37 addition to the preliminary education requirement of  
38 subdivision ~~(e)~~ (b).

39 (9) Has previously held a valid manufactured home or  
40 mobilehome dealer's license issued by the department, or

1 was a person designated to participate in the direction,  
2 control, or management of the sales operations of a  
3 partnership, corporation, or other business entity that  
4 previously held a valid manufactured home or  
5 mobilehome dealer's license issued by the department  
6 and the license has never been revoked for cause, and  
7 never reissued, or suspended for cause and the terms of  
8 suspension have not been fulfilled.

9 (10) Has any combination of the above experience  
10 that would provide at least two years of experience within  
11 the five years immediately preceding the application for  
12 an initial manufactured home or mobilehome dealer's  
13 license. The two years of experience shall not be  
14 concurrent.

15 (b) The applicant shall have met the applicable  
16 preliminary education requirements for the  
17 manufactured home or mobilehome dealer's license  
18 under paragraph (5) of subdivision (b) of Section 18056.2.

19 (c) The department may adopt regulations, as  
20 necessary, to implement this section.

21 SEC. 2. Section 18070.3 of the Health and Safety Code  
22 is amended to read:

23 18070.3. (a) When any person (1) who has purchased  
24 a manufactured home for a personal or family residential  
25 or investment purpose or (2) who has sold a  
26 manufactured home for a personal or family residential  
27 or investment purpose, obtains a final judgment in any  
28 court of competent jurisdiction against any  
29 manufactured home dealer, salesperson, or other seller or  
30 purchaser, and the judgment is based on the grounds of  
31 failure to honor warranties or guarantees, or for fraud, or  
32 for willful misrepresentation of the kind or quality of the  
33 product sold or purchased, or for conversion, arising  
34 directly out of any transaction which occurs on or after  
35 January 1, 1985, the person, upon termination of all  
36 proceedings, including appeals, may file a claim with the  
37 department for an order directing payment out of the  
38 fund of the amount of actual and direct loss in the  
39 transaction.

(b) If any person either purchases a manufactured home used for a personal or family residential or investment purpose from, or sells a manufactured home used for a personal or family residential or investment purpose to, a licensee who is or has been the subject of a bankruptcy proceeding, the person may file a claim with the department for an order directing payment out of the fund of the actual and direct loss in the transaction based on the licensee's failure to honor warranties or guarantees, or for fraud, or for willful misrepresentation of the kind or quality of product purchased or sold, or for conversion, arising directly out of any transaction that occurs on or after January 1, 1985.

(c) No person applying for recovery from the fund shall apply for judgment on any bond issued prior to January 1, 1985.

(d) "Actual and direct loss," for purposes of this chapter, includes:

(1) The amount of the actual and direct loss, plus court costs and reasonable attorney fees incurred in pursuit of the judgment, not to exceed 15 percent of the amount of the judgment, if the claim is based on a judgment.

(2) Only the amount of the actual and direct loss, if the claim is not based on a judgment.

(e) (1) The total amount of the claim shall not exceed the amount of actual and direct loss that remains unreimbursed from any source.

(2) The maximum payment ordered under this section, with respect to any one sales transaction on a new or used manufactured home, shall be the amount of the judgment plus attorney's fees or, in the case of a bankrupt licensee, the amount of the actual and direct loss, as determined by the department based on information in the possession of the department and information provided by the claimant or claimants. In no event shall the actual payments exceed seventy-five thousand dollars (75,000).

(3) Notwithstanding any other provision of this chapter, a person who purchases or sells a manufactured home for an investment purpose may receive payment

1 from the fund for that purpose only once. A person who  
2 has received payment from the fund for the purchase or  
3 sale of a manufactured home for an investment purpose  
4 shall henceforth be ineligible to make a claim under this  
5 chapter, either as a natural person or as a member of a  
6 partnership, as an officer or director of a corporation, as  
7 a member of a marital community, or in any other  
8 capacity.

9 (f) For the purposes of this chapter:

10 (1) "Claimant" does not include a person holding a  
11 lien on, or a person possessing a secondary interest in, a  
12 manufactured home.

13 (2) "Conversion" means the unlawful appropriation of  
14 the property of another.

15 (g) Prior to payment of any claim against the fund, the  
16 claimant or claimants shall have first:

17 (1) If the claim is based on a final judgment, executed  
18 judgment against all the assets of the judgment debtor or  
19 presented evidence satisfactory to the department that  
20 the debtor is judgment proof.

21 (2) If the claim is not based on a final judgment,  
22 presented evidence satisfactory to the department that  
23 the licensee is or has been the subject of bankruptcy  
24 proceedings and, for purposes of any civil litigation or  
25 claims in bankruptcy proceedings, has assigned to the  
26 department any interest in the actual and direct loss  
27 described in subdivision (d) in the amount that the  
28 claimant or claimants recover from the fund.

29 (h) A claim against the fund shall be filed with the  
30 department in accordance with the following:

31 (1) If the claim is based on a final judgment, within one  
32 year from the date of the judgment.

33 (2) If the claim is not based on a final judgment, within  
34 one year from the termination of bankruptcy  
35 proceedings or one year from the date of sale as  
36 determined by subdivision (a) of Section 18070.2,  
37 whichever event occurs later.

38 (i) When any person files a claim for an order directing  
39 payment from the fund, the department shall conduct a  
40 review of the application and other pertinent

1 information in its possession, and it may issue an order  
2 directing payment out of the fund as provided in  
3 subdivisions (a) to (h), inclusive, subject to the  
4 limitations of subdivisions (a) to (h), inclusive, if the  
5 claimant or claimants show all of the following:

6 (1) That he or she is not a spouse of the judgment  
7 debtor, the bankrupt licensee, or a person representing  
8 the spouse.

9 (2) That he or she is making an application within the  
10 time specified in subdivision (h).

11 (3) That the claimant has satisfied the applicable  
12 requirements of subdivision (g).

13 (4) That, if the claimant is a seller of a manufactured  
14 home used by the seller for personal, family, or household  
15 purposes, the claimant made a good faith effort to  
16 adequately secure the debt resulting from the sale of the  
17 manufactured home and with respect to which the claim  
18 is made. For purposes of this paragraph, a good faith effort  
19 to secure the debt may be demonstrated by, but shall not  
20 be limited to, providing the department with a  
21 promissory note signed by the debtor and which,  
22 pursuant to the terms thereof, is secured by collateral  
23 with a reasonable value at least equal to the debt  
24 evidenced by the promissory note.

25 (j) Upon an order of the department directing that  
26 payment be made out of the fund, the Controller is  
27 authorized to draw a warrant for the payment of the  
28 amount of the claim approved by the department  
29 pursuant to this section.

30 (k) In dispersing moneys from the fund, the  
31 department is authorized to give priority to claimants  
32 who have attempted to purchase or sell a manufactured  
33 home for a personal or family residential purpose.

34 (l) Prior to July 1, 1995, the department shall  
35 completely process and render determinations upon all  
36 claims to the fund that were received by the department  
37 prior to January 1, 1993. All claims to the fund that are  
38 received on or after January 1, 1993, shall be processed,  
39 and a determination made, within one year of the original  
40 date of application.

1 (m) The department, upon request by a Member of  
2 the Legislature, shall provide the following information:  
3 the number of claims to the fund, number of claims  
4 processed and decided within one year of their  
5 application date, the amount of fund money paid to  
6 claimants, and the amount of fund money allocated for  
7 the department's costs.

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